

EXHIBIT 1

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO: 9:25-CV-80880 LEIBOWITZ**

JANE DOE 1, et al.,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

**PLAINTIFFS' SUR-REPLY
IN RESPONSE TO DEFENDANT
THE UNITED STATES OF AMERICA'S
MOTION TO DISMISS**

Plaintiffs submit this short sur-reply to address the inaccuracies and new arguments that were first presented by Defendant's in its reply to its motion to dismiss, such that Plaintiffs have not had the opportunity to address same.¹

Specifically, Defendant adds three new sources as substantive evidence in support of its statute of limitations argument. In addition, Defendant presented new arguments by making material misrepresentations of fact at a time when Defendant knew Plaintiffs would not have an opportunity to respond, including misrepresenting the holding of the decision in *In re Marjory Stoneman Douglas High Sch. Shooting*, 482 F. Supp. 3d 1273, 1276 (S.D. Fla. 2020)(hereinafter "*Marjory Stoneman Douglas*") and misrepresenting that the policies cited by Plaintiffs use language that is not found in the cited policies.

Despite having access to all of the materials from dates prior to its initial motion papers, Defendant, for the first time, presented three sources from which Defendant claims Plaintiffs should have had notice that the FBI was the cause of their injuries. However, the standard for discovery diligence is reasonable diligence, and Defendant's argument amounts to a request that this Court to hold victims of sex-trafficking to a higher standard for diligent investigation than the FBI itself.

For example, Defendant contends, for the first time, that the Miami Herald article, "*New Jeffrey Epstein accuser goes public; defamation lawsuit targets Dershowitz*," which was originally published in 2019 and therefore available when Defendant filed its initial motion papers, conferred Plaintiffs with notice of the causal connection between the FBI and their injuries. However, no reasonably diligent person would assume that an article in a local newspaper about a defamation lawsuit between private individuals contains information giving rise to a lawsuit against the FBI, and any reference to the FBI in the article can best be described as tangential, and regardless does not provide any notice whatsoever that it was known by Plaintiffs or should have been known that the FBI was negligent, did not follow its policies and procedures, and caused injury to Plaintiffs.

Defendant also argued, for the first time, that the Virginia Giuffre case from 2019 (also available for Defendant to use in its underlying papers) conferred notice to Plaintiffs; however,

¹ Plaintiffs do not endorse or concede any of the other arguments made by Defendant in their Reply Brief, but only address the Defendant's misrepresentations and new arguments presented in their reply, as appropriate for a sur-reply.

sexual assault victims cannot and should not be expected to monitor PACER to read every court filing in every other victim's case to ascertain whether anything in those other cases suggested that the Government was the cause of *their* injuries. That would far exceed the reasonable diligence standard required to toll the statute of limitations under the discovery diligence standard.

Defendant's final argument on this matter, that Plaintiffs were not diligent because they could have filed FOIA requests to obtain information regarding the FBI's investigation, was also available to Defendant when it filed its underlying papers, but was reserved by Defendant for its reply. Regardless, the argument is nonsensical, because documents disclosed through FOIA requests are subject to redaction when records are "compiled for law enforcement purposes [...] ... [the disclosure of which] could reasonably be expected to interfere with enforcement proceedings." 5 U.S.C. § 552(b)(7)(A). Moreover, Defendant is aware of this, given their citation to *Radar Online LLC v. FBI*, 2024 WL 3161777 (S.D.N.Y. June 25, 2024)., in which the requesting party unsuccessfully attempted to unredact FOIA documents regarding Jeffery Epstein. *Radar Online LLC v. FBI*, 2024 WL 3161777 (S.D.N.Y. June 25, 2024). Even the Attorney General of the United States has publicly expressed that the FBI has repeatedly refused to disclose documents from the government itself. Letter from Pamela Bondi, Attorney General of the United States to Kash Patel, Director of the Fed. Bureau of Investigation (Feb. 27, 2025, last visited Oct. 15, 2025) <https://www.justice.gov/ag/media/1391331/dl?inline>), attached to Plaintiff's Response as Exhibit 4 ("Despite my repeated requests, the FBI never disclosed the existence of these files"). If the Attorney General was unable to secure this information, it is absurd to believe that Plaintiffs would have prevailed upon a FOIA request.

Notably, even if Plaintiffs' investigative skills were superior to those of the FBI and the DOJ, *none* of these three new sources reasonably would have revealed that the FBI failed to follow its mandatory policies and procedures in a manner that allowed a known sex-trafficking ring to continue trafficking young women and children, including Plaintiffs, causing Plaintiffs' injuries. That revelation in 2023, as alleged by Plaintiffs in their complaint and their Response, is from when the statute of limitations should be based because Plaintiffs did not and could not have reasonably discovered that the FBI caused their injuries until then as the FBI refused and continues to obfuscate its negligence with regard to the Jeffery Epstein sex-trafficking ring.

This sur-reply is also necessary to address misrepresentations by Defendant in its Reply.

One such misrepresentation by Defendant is Defendant's contention that the complaint in *In re Marjory Stoneman Douglas High Sch. Shooting*, 482 F. Supp. 3d 1273, 1276 (S.D. Fla. 2020)(hereinafter "*Marjory Stoneman Douglas*") adequately pleaded a special relationship. Defendant presented this argument as a means to distinguish *Marjory Stoneman Douglas* with the present matter; otherwise, if the precedent set by *Marjory Stoneman Douglas* is followed, Defendant's motion to dismiss must be denied. Yet, Defendant's description of the decision in *Marjory Stoneman Douglas* is verifiably false, and, in fact, is the exact opposite of the Court's holding in that case. Whereas Defendant has tried to convince this Court that the plaintiffs in *Stoneman Douglas* adequately pleaded a special relationship, in reality, the Court explicitly held, "In fact, the Complaint does not allege that the Government's duty derived from a special relationship," before denying the motion to dismiss. *Marjory Stoneman Douglas*, fn 5. The Court further specified that the duty element was established through a private person analogue, as is required under the FTCA, rather than a governmental duty analysis, which would utilize a *Trianon* analysis or require Plaintiffs to establish duty via a special relationship. *Id.* at 1286-88, fn. 3 ("Florida's *Trianon* analysis – which pervades the United States' analysis at every turn – differs fundamentally from federal courts' duty analysis under the FTCA").

Finally, Defendant baselessly mischaracterization its own policies by referring to them as discretionary, despite nothing in the policies supporting such a characterization. Specifically, Defendant argued, "these policies recommend certain investigatory procedures, they do not mandate any specific course of action for agents to follow." Def. Reply at pp. 8-9 (Emphasis in Defendant's reply). However, the word "recommend" does not appear in the FBI's policies cited by Plaintiffs. *See* Pltfs. Resp. at Exhibit 3. Nor does Defendant cite any portion of the Manual that designates its contents to be recommendations rather than mandates. Therefore, Defendant's emphasis on the word "recommend" is an effort to wrongly suggest to the Court that "recommend" is language from the policies itself, despite "recommend" not appearing anywhere in the actual document, and is another attempt by Defendant to misrepresent the facts when Defendant thought Plaintiffs would have no opportunity to respond. Therefore, Plaintiffs maintain that this language is mandatory, not permissive, in nature.

For the reasons set forth in Plaintiffs' Response and in Plaintiffs' sur-reply, this Court should deny Defendant's motion to dismiss in its entirety.

Date: October 29, 2025

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